

ESTTA Tracking number: **ESTTA566464**

Filing date: **10/22/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Paul Ferrara		
Entity	Individual	Citizenship	UNITED STATES
Address	2 Turtle Hollow Drive Manalapan, NJ 07726 UNITED STATES		

Correspondence information	Bruce T. Margulies Attorney of Record Neifeld IP Law, PC 4813-B Eisenhower Ave. Alexandria, VA 22304 UNITED STATES bmargulies@neifeld.com Phone:7034150012
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### Registration Subject to Cancellation

Registration No	4423339	Registration date	10/22/2013
Registrant	Laracuenta, Juliette 4th Floor / Loft Space C-404 720 Monroe Street Hoboken, NJ 07030 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 041. First Use: 2013/04/01 First Use In Commerce: 2013/04/07 All goods and services in the class are cancelled, namely: Educational services, namely, providing training and courses in the field of fashion makeup artistry and beauty skills
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### Grounds for Cancellation

Genericness	Trademark Act section 23
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4379779	Application Date	12/20/2012
Registration Date	08/06/2013	Foreign Priority Date	NONE
Word Mark	BEHIND THE SCENES MAKEUP ACADEMY		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2013/02/27 First Use In Commerce: 2013/02/27 Educational services in the nature of beauty schools; education and training, namely, conducting classes, workshops and seminars and providing educational demonstrations and training all in the field of beauty and makeup applications including cosmetics and special effects

U.S. Application No.	85563508	Application Date	03/07/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FERRARA MAKEUP ACADEMY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: Educational services in the nature of beauty schools		

Attachments	NoticeOfOpposition_10-5-2013c.pdf(186570 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/BTM/
Name	Bruce T. Margulies
Date	10/22/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 4,423,339, Supplemental Register

Cancellation No: Filed herewith

For the mark “ARTIST MAKEUP ACADEMY”

Paul Ferrara,

Petitioner

v.

Juliette Laracuate,

Registrant

PETITION TO CANCEL

Paul Ferrara, with an address at 2 Turtle Hollow Drive, Manalapan, NJ 07726, United States (“Petitioner”) believes he will be damaged by registration of the mark shown in Registration No. 4,423,339 for “Educational services, namely, providing training and courses in the field of fashion makeup artistry and beauty skills in international class 041” (“the Registration” and/or “Registrant’s Mark”), filed by Juliette Laracuate, 4th Floor / Loft Space C-404 720 Monroe Street Hoboken NEW JERSEY 07030, (“Registrant”) and petitions to cancel the same. The required fee for the filing of this Petition to Cancel is submitted herewith. If any additional fees are due, please charge said fees to Deposit Account No: 50-2106.

The grounds for the Petition to Cancel are as follows:

**COUNT 1 - Likelihood to Cause Confusion, cause mistake, or to deceive; Trademark Act  
Section 2(d), 15 USC Section 1052(d)**

1. Petitioner filed Application No. 85/563,508 on March 7, 2012 for “FERRARA MAKEUP ACADEMY” for “Educational services in the nature of beauty schools, in class 041”.
2. Petitioner filed Application No. 85/808,483 on December 20, 2012 for “BEHIND THE SCENES MAKEUP ACADEMY” for “Educational services in the nature of beauty schools; education and training, namely, conducting classes, workshops and seminars and providing educational demonstrations and training all in the field of beauty and makeup applications including cosmetics and special effects, in class 041”.
3. Petitioner’s Application No. 85/808,483 Registered on August 6, 2013 with Registration No. 4,379,779.
4. Registrant filed Application No. 85/898,608 on April 9, 2013, with an alleged date of first use of April 7, 2013, for “ARTIST MAKEUP ACADEMY” for “Educational services, namely, providing training and courses in the field of fashion makeup artistry and beauty skills, in class 041”.
5. Petitioner’s Application No. 85/563,508 for “FERRARA MAKEUP ACADEMY” has priority over Registrant’s Registration No. 4,423,339 for “ARTIST MAKEUP ACADEMY”.
6. Petitioner’s Application No. 85/808,483 for “BEHIND THE SCENES MAKEUP ACADEMY” has priority over Registrant’s Registration No. 4,423,339 for “ARTIST MAKEUP ACADEMY”.

7. Registrant's mark for "ARTIST MAKEUP ACADEMY" so resembles Petitioner's mark "FERRARA MAKEUP ACADEMY", as to be likely, when used on or in connection with the goods or services of Registrant, to cause confusion, or to cause mistake, or to deceive.

8. Registrant's mark for "ARTIST MAKEUP ACADEMY" so resembles Petitioner's mark "BEHIND THE SCENES MAKEUP ACADEMY", as to be likely, when used on or in connection with the goods or services of Registrant, to cause confusion, or to cause mistake, or to deceive.

**COUNT 2 - Merely Descriptive: Trademark Act Section 2(d), 15 USC Section 1052(e)**

9. Petitioner realleges and incorporates by reference herein all paragraphs of this Complaint as if fully repeated herein.

10. Registrant states on its website <http://artistmakeupacademy.com/ama-campus.html> that: "Artist Makeup Academy (AMA) is any make-up artists [sic] dream training facility ...". A true copy of the page <http://artistmakeupacademy.com/ama-campus.html> is attached as **Attachment 1**.

11. Registrant's Mark describes an ingredient, quality, characteristic, function, feature, purpose, or use of Registrant's specified goods or services.

12. Registrant's Mark immediately conveys knowledge of a quality, feature, function, or characteristic of Registrant's goods or services.

13. On September 9, 2013, Registrant amended Application No. 85/898,608 to the Secondary Register.

14. By amending Application No. 85/898,608 to the Secondary Register, Registrant

acknowledged that Application No. 85/898,608 was not inherently distinctive of the goods or services it identifies.

15. During prosecution of Application No. 85/898,608, Registrant submitted a voluntary disclaimer of “MAKEUP”.

16. Registration No. 4,423,339 contains a voluntary disclaimer of “ACADEMY”.

17. Registrant’s Mark, when used on or in connection with the goods or services of Registrant is merely descriptive.

**COUNT 3 - Generic: 15 USC Section 1064(3)**

18. Petitioner realleges and incorporates by reference herein all paragraphs of this Complaint as if fully repeated herein.

19. The term “Artist Makeup Academy” is widely used to describe a type of service provided by Registrant, namely a training facility for makeup artists.

20. The term “Artist Makeup Academy” is generic, in that its primary significance is to refer to a training facility for makeup artists.

21. “Artist Makeup Academy” is not capable of distinguishing Registrant’s services.

22. Registration of Registrant’s Mark harms competitors of Registrant who need the terms “Makeup Artist” and “Academy” to refer to their services.

23. Registrant’s Mark is generic.

WHEREFORE, Petitioner's Mark has priority over Registrant's Mark.

WHEREFORE, Registrant's mark so resembles Petitioner's Marks, as to be likely, when used on or in connection with the goods or services of Registrant, to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Registrant's Mark is merely deceptive.

WHEREFORE, Registrant's Mark is generic.

WHEREFORE, Petitioner prays that Registration No. 4,423,339 be canceled.

Respectfully submitted,

/BruceMargulies/

10/22/2013

Bruce T. Margulies

Date

Neifeld IP Law, PC

4813-B Eisenhower Ave.

Alexandria, VA 22304

(703) 415-0012 ext. 102

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Attorney of Record for Petitioner

Certificate of Service

I certify that on October 22, 2013, I caused a copy of the foregoing Petition to Cancel to be transmitted by First Class U.S. Mail to Registrant at the Registrant's correspondence address of record in the Office:

JULIETTE LARACUENTE  
720 MONROE ST  
HOBOKEN, NEW JERSEY 07030-6315

10/22/2013  
Date

/BruceMargulies/  
Bruce T. Margulies



## Attachment 1

### AMA CAMPUS

ARTIST MAKEUP ACADEMY (AMA) IS ANY MAKE-UP ARTISTS DREAM TRAINING FACILITY OCCUPYING AN IMPECCABLY DESIGNED CORNER LOFT SPACE ON THE 4TH FLOOR OF THE MONROE ARTS CENTER BUILDING IN HOBOKEN, NEW JERSEY. UPON YOUR ARRIVAL PREPARE TO BE SURROUNDED BY THE ARTS IN HOBOKEN'S PROMINENT MULTI-DISCIPLINARY CENTER, SURROUNDED BY ITS ECLECTIC CHIC BOUTIQUES AND UPSCALE RESTAURANTS. THE MONROE ARTS CENTER IS HOME TO A VARIETY OF ARTISANS, PHOTOGRAPHY STUDIOS, MUSIC AND FILM PRODUCTION HOUSES AS WELL AS UP AND COMING FASHION DESIGNERS.

AMA PROVIDES EXTENSIVE HANDS ON AND BUSINESS LEVEL TRAINING IN THE AREAS OF MAKE-UP ARTISTRY FOR FASHION, BEAUTY AND ENTERTAINMENT. OUR CERTIFIED AND INDUSTRY SAVVY INSTRUCTORS WILL LEAVE STUDENTS WITH A VAST ARRAY OF SKILL-SETS IN THEIR DESIRED PROGRAM OF STUDY. OUR GOAL IS TO CREATE MOTIVATED PROFESSIONALS WHO WILL FLOURISH IN REAL WORLD APPLICATION AND ENDURE SUSTAINABLE AND LUCRATIVE CAREERS.

AMA IS DEVOTED TO PROVIDING A SECOND TO NONE EDUCATIONAL EXPERIENCE. WE ARE EAGER TO INSTILL A CURRICULA PASSIONATELY DESIGNED BY MAKE-UP ARTISTS FOR MAKE-UP ARTISTS. STUDENTS WILL EXPERIENCE DIVERSE LEVELS OF TECHNICAL GUIDANCE ENCOMPASSED WITH PROFESSIONAL BUSINESS, SET ETIQUETTE AND NETWORKING BEST PRACTICES. AMA WILL CARVE THE WAY FOR EACH STUDENT TO BUILD UPON THEIR PERSONAL STYLE WHILE MOLDING THEM FOR THE INDUSTRY THEY LOVE.

ARTIST MAKEUP ACADEMY

INFO@ARTISTMAKEUPACADEMY.COM

